



STATE BOARD OF LAND COMMISSIONERS

Dirk Kempthorne, Governor and President of the Board

Pete T. Cenarrusa, Secretary of State

Alan G. Lance, Attorney General

J. D. Williams, State Controller

Marilyn Howard, Superintendent of Public Instruction

Stanley F. Hamilton, Secretary to the Board

Final Minutes Regular Land Board Meeting October 12, 1999 9:00 AM – 10:30 AM

The regular meeting of the Idaho State Board of Land Commissioners was held on October 12, 1999 in Boise, Idaho. The Honorable Dirk Kempthorne presided. The following members were present:

Honorable Secretary of State Pete T. Cenarrusa
Honorable State Controller J. D. Williams
Honorable Superintendent of Public Instruction Marilyn Howard

Secretary to the Board Stanley F. Hamilton

Honorable Attorney General Alan Lance was absent from the meeting.

▪ **CONSENT AGENDA**

Director Hamilton provided background information on Consent Agenda items.

A motion was made by Secretary of State Cenarrusa to approve the Consent Agenda with item #4 being held until the November 9th, 1999 Regular Land Board meeting. Superintendent Howard seconded the motion. The motion carried on a vote of 4-0 with Attorney General Lance absent.

1. **Official transactions – APPROVED**

- A. Bureau of Real Estate, Land Sale Section – August 1999
- B. Bureau of Forest Management, August 21, 1999 through September 29, 1999
- C. Bureau of Real Estate, Easement Section – August 1999
- D. Bureau of Minerals – September 1999

2. **Timber sales – APPROVED**

- | | | |
|--------------|------------------|-----------|
| A. CR-2-0205 | MNF Big Creek II | 2,960 MBF |
| B. CR-2-0215 | Supper Creek II | 1,785 MBF |
| C. CR-2-0216 | State Line | 2,245 MBF |

3. **Request to Add Name to the Payette Lake Cottage Site Exchange List, presented by Perry A. Whittaker, Chief, Bureau of Real Estate**

DEPARTMENT OF LANDS RECOMMENDATION: Department staff request land board approval to add John Kloss' name to the Payette Lake Lakefront Cottage Site Exchange List.

ACTION: Board approved.

4. **Marsing Job Corps Site Surplus Property – Request by the Department of Fish and Game to reconsider the proposed sale of 52.5 acres of improved property near Marsing under the Surplus Property Act, presented by Perry A. Whittaker, Chief, Bureau of Real Estate**

DEPARTMENT OF LANDS RECOMMENDATION: The department recommends board approval to allow IDFG to offer this 52.50-acre parcel for sale at public auction for \$264,000. The terms of the sale are ten percent (10%) down payment on the day of auction, plus the balance financed over a twenty (20) year period with the annual interest rate being seven and three-quarters percent (7 $\frac{3}{4}$ %).

DISCUSSION: Controller Williams stated he and Secretary of State Cenarrusa met as a subcommittee with individuals from Fish and Game to discuss the proposed sale of this property. The subcommittee recommended that the property be sold for the appraised value of the land. At that time, Controller Williams expressed an interest in visiting the site before the property is offered for auction. On October 11, 1999 Controller Williams and Superintendent Howard visited the property. Based on that site visit, Controller Williams requested this item be held for one month so questions about the property can be answered. Hearing no objection, Governor Kempthorne so ordered.

ACTION: This item held until the November 9th, 1999 regular Land Board meeting.

5. **Boise River Disclaimer – Request approval for disclaimer of interest to G. O. Ranches, Inc., on 2.97 acres of accretion land adjacent to the Boise River in Ada County, presented by Perry A. Whittaker, Chief, Bureau of Real Estate**

DEPARTMENT OF LANDS RECOMMENDATION: It is recommended that a disclaimer of interest be issued for this parcel of accretion land totaling 2.97 acres adjacent to the present and former location of the Boise River. This disclaimer of interest will be issued contingent upon the applicant granting to the state a 25.00 foot wide permanent greenbelt pedestrian easement for approximately 450.00 lineal feet along the right (north) boundary of the Boise River. The applicant shall also be required to grant to the state of Idaho a disclaimer of interest for the current riverbed lying adjacent to the applicant's property. The recommended fee is \$600.00.

ACTION: Board approved.

6. **Results of 1999 Expiring Grazing Lease G-9852, presented by Tracy Behrens, Range Management Specialist**

DEPARTMENT OF LANDS RECOMMENDATION: The department recommends that the board accept the high bid submitted for lease G-9852 and that the new grazing lease be issued to the high bidder. The grazing lease will include a management agreement based on the management proposal submitted by the applicant and agreed to by the department.

DISCUSSION: Secretary of State Cenarrusa commented some of the former lessees are asking whether they should appeal, if they are going to appeal, or is the Land Board going to act on these issues as to who gets the leases.

Director Hamilton responded if the lessees do not appeal, then the Department will bring those leases forward with basically the results of the auctions as they occurred. The Department probably will make its recommendation along those lines. Anyone involved in an auction, and who is dissatisfied with the results of that auction, must appeal. They have twenty days from the date of the auction to file an appeal. All that is required to file an appeal is a letter to the department indicating they wish to appeal the results. After receiving the appeal request letter, the lessee will be placed on the next available Land Board agenda.

ACTION: Board approved.

7. Results of Auction for Grazing Lease G-9358, Reopened by Idaho Supreme Court Action, presented by Tracy Behrens, Range Management Specialist

DEPARTMENT OF LANDS RECOMMENDATION: The department recommends that the board accept the high bid of \$2700 and that a lease be issued to Wilson Ranch LLC for the 1280 acres involved in the lease auction. The department also recommends that Kermit Purcell be issued a new lease for the 80 acres of the cancelled lease for which he was the only applicant. These new leases will include a management agreement based on the management proposal submitted by the applicant and agreed to by the department.

ACTION: Board approved.

▪ **REGULAR AGENDA**

8. Director's Report, presented by Stanley F. Hamilton, Director, Department of Lands

- Standard Report – Permanent Endowment Fund balance \$777,710,000.

The Fund balance consists of approximately \$535,000,000 in public school funds and approximately \$242,000,000 in pooled funds, which are the other eight endowments. Values are adjusted for some of the activities of the Permanent Fund Endowment Investment Board. During the last months of the fiscal year, the Board goes through their portfolio and prepares for distribution to beneficiaries.

The Permanent Fund Endowment Investment Board has retained a consultant who is examining the manner in which both the permanent fund and the land trust fund have been managed in terms of revenues coming in and expenses. The consultant is preparing models to help the Board develop a spending plan to provide beneficiaries with consistent revenues over the year. A report to the board should be available at either the November or December 1999 regular Land Board meeting.

- Summary Report – 1999 conflicted grazing leases and reconsidered 1995-1996 leases
At this point, Tracy Behrens, Range Management Specialist, Department of Lands, provided information for the summary report. Mr. Behrens explained handouts provided to Land Board members.

Handout #1 – Summary of 1999 expiring grazing leases that have been conflicted.

- *Leases 1 through 4*
 - 1 & 2 – Lequerica Brothers
 - 3 – L. U. Ranching
 - 4 – William Panzeri
- ✓ *Auction Scheduled:* October 15, 1999
 Department of Lands, Southwest Area office
- *Lease #5 – Scott Nicholson – two conflictors*
- ✓ *Auction Scheduled:* October 19, 1999
- *Lease #6 – Wesley Miles.* This lease is adjacent to our Cottonwood block in Eastern Idaho. An auction was held on September 13th, 1999. An appeal has been received from the Wesley Miles family. The appeal was received within the twenty-day appeal period. The Miles family was the low bidder. The high bid went to a conflicting applicant who has adjacent deeded land and is a member of the Cottonwood Grazing Association. It is anticipated the Miles family appeal will be brought before the board at the December meeting for action.

Mr. Behrens went on to explain how the appeal process is handled. He stated the department takes the appeal as filed and gives a copy of the appeal to the opposing party. The opposing party has an allotted amount of time to respond to the appeal. The opposing party's response is then sent to the original person who filed the appeal so they can make a counter reply. After receiving the counter reply, the department puts together a summary report and brings the report to the board for action.

- *Lease #7 – Daniel Grover.* This lease was conflicted at one time but prior to an auction being scheduled the applicant withdrew his application.
- *Lease #8 – Forest Wood.* This lease is on today's Consent Agenda. The auction took place in eastern Idaho.

Handout #2 – Mr. Behrens continued on to the second page of the handout. The second page summarizes cases involved with the Supreme Court case from earlier this year.

- The first lease is one of the Simplot leases. IWP had filed an application but withdrew the application prior to the date of auction.
- The second lease is Highland Livestock. An auction was held on September 28th and IWP was the high bid at \$1500. The twenty-day appeal period is still open. This lease will be presented at the November meeting, assuming there is no appeal. At this time there is no appeal.
- The next lease is another Simplot lease. In this case, IWP submitted four separate applications prior to auction. IWP withdrew two applications so we only had two auctions. In both cases Simplot was the high bidder. If no appeals are filed, we will be presenting this lease to the board at the November meeting.
- The next two leases are Diamond A Livestock. Auctions were held last week and IWP was the high bidder in both cases. As with the others, we have to wait to see if there are any appeals filed.
- The next lease is the Sawtooth Grazing Association. There were four applications filed against them. Mr. Weston was the high bid on both of his auctions. The Sawtooth Grazing Association was the high bid against Emily Karassik. IWP failed to show up on the day of the auction so there was no auction in that case. Staff did wait the required hour for IWP to arrive at the auction but they did not attend. This lease will be brought to the board next month.
- The next lease, Kermit Purcell, was on the Consent Agenda this morning.

- The last lease is Mountain Springs Ranch against IWP. An auction was held September 9th at the Department of Lands Idaho Falls office. An appeal has been filed by Mountain Springs Ranch and we are in the process of obtaining comments from IWP at this time. We anticipate this lease coming before the board in December.

No action taken on this agenda item.

9. Gooding T. B. Hospital Surplus Property – Request by Gooding County Commissioners to acquire 2.45 acres of the property in Gooding under the Surplus Property Act, presented by Perry A. Whittaker, Chief, Bureau of Real Estate

DEPARTMENT OF LANDS RECOMMENDATION: IDL recommends land board approval to transfer the 2.45 acre parcel to the Gooding County Commissioners for the estimated \$25,000 demolition savings upon board approval and after a four (4) week advertisement and hearing.

DISCUSSION: Secretary of State Cenarrusa asked if there is a plan for the remainder of the acreage at this site. Mr. Whittaker responded once the site is demolished, the board will be asked to make a decision on what to do with the remainder of the property. The city and county have both expressed some interest in acquiring the property.

Governor Kempthorne asked if the state would have any further liability once asbestos is removed. Mr. Whittaker stated it is his understanding there would not be any further liability to the state.

MOTION: A motion was made by State Controller Williams and seconded by Secretary of State Cenarrusa to accept the Department of Lands recommendation. The motion carried on a vote of 4-0 with Attorney General Lance absent.

10. Appeal of Decision to Reject Late Application for Grazing Lease G-6142, presented by Tracy Behrens, Range Management Specialist

DEPARTMENT OF LANDS RECOMMENDATION: The department recommends that the board reject Owyhee Calcium Products Inc.'s appeal to accept their application for lease G-6142 because the application was submitted after the established deadline.

The department further recommends that the board direct the department to process the single application for this lease, filed by John Carothers. Mr. Carothers will be required to submit an acceptable grazing management proposal before a new lease is issued.

DISCUSSION: Secretary of State Cenarrusa stated he feels the board can make an exception in this case because it is an unusual situation. Controller Williams expressed concern that an exception might have a future impact on the statutory portion of conflict procedures. Deputy Attorney General Clive Strong advised the board he did not feel a decision in this case would set a precedent for future leases.

Prior to a motion being entertained, Director Hamilton advised the board there may be a member of the audience who would like to address this issue. Mr. John Carothers stepped forward and was granted an audience with the board. Mr. Carothers told the board he is from Grandview, Idaho and is the successful applicant for the proposed lease. Mr. Carothers stated he waited until the day before the deadline had been set to put in his application and there had been no other applications submitted up to that time. He advised the board he feels his application should be considered as the only valid application to be presented before the Land Board.

Superintendent Howard asked Mr. Carrothers in what way he would be harmed by not having this lease and how would obtaining the lease add to his operation. Mr. Carrothers responded the lease would increase his grazing capacity. It would increase the number of cows he could run and it would give him management options he does not currently have. He would be doing a lot of improvements on state ground. For example, fences would be moved to protect state-owned property that is not protected at this time from over grazing.

Governor Kempthorne asked Mr. Behrens how long Mr. Melton, the former lessee, has held this lease. Mr. Behrens responded Owyhee Calcium Products acquired the lease in 1995. When Mr. Melton first acquired the lease, he did so believing it would be an eight or nine year lease. The lease was cancelled as a result of the Supreme Court action.

Secretary of State Cenarrusa asked Mr. Behrens if Owyhee Calcium knew about the deadline. Mr. Behrens responded the deadline was established by board action at the July meeting held in Montpelier. Prior to that meeting notice was sent to all of the lessees that the board would be addressing the application and the whole process at the July meeting. Shortly after that meeting, a notice was sent out regular mail on July 22nd, 1999. Mr. Melton was aware that there would be a time period for accepting applications. He had signed the temporary permit allowing him to use the parcel for this year. Governor Kempthorne observed Mr. Melton wrote in his letter (attachment #5) that he was out of the country from July 21st, 1999 through August 11, 1999.

MOTION: A motion was made by Secretary of State Cenarrusa and seconded by State Controller Williams to reject the current lease application and to reopen Grazing Lease G-6142 for bid. The motion carried on a vote of 4-0 with Attorney General Lance absent.

▪ **INFORMATION AGENDA**

Director Hamilton briefed the Land Board on the Information Agenda items. No Land Board action is required on the Information Agenda.

11. Timber Sale Activity Report

12. Fire Report

DISCUSSION: Governor Kempthorne noticed that human-caused fire figures are up almost double this year over last year. He asked if there has been any change in the state's efforts on public information concerning fire prevention. Director Hamilton responded the Department of Lands maintains a very strong fire prevention program along with the Forest Service and BLM. Governor Kempthorne asked if figures are available to show acres lost due to human activity and acres lost due to lightning activity. Director Hamilton said the department will break the figures down to human caused acres burned and lightning caused acres burned. Figures would be made available for the November Land Board meeting.

13. Interest Rate Update

14. Stibnite Mine Reclamation

15. Triumph Mine Remediation

16. Grazing Fee for Calendar Year 2000

MOTION: A motion was made by State Controller Williams and seconded by Secretary of State Cenarrusa to move into Executive Session to discuss a real estate matter. The motion carried on a vote of 4-0 with Attorney General Lance absent.

MOTION: A motion to return to regular session was made by Secretary of State Cenarrusa and seconded by Governor Kempthorne. The vote carried on a vote of 4-0 with Attorney General Lance absent.

Upon return to regular session, and there being no further business to come before the Board, the meeting adjourned at 10:30 a.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ _____ Dirk Kempthorne
President, State Board of Land Commissioners and
Governor of the State of Idaho

/s/ _____ Pete T. Cenarrusa
Pete T. Cenarrusa
Secretary of State

/s/ _____ Stanley F. Hamilton
Stanley F. Hamilton
Director

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| <p>The above-listed final minutes were approved by the State Board of Land Commissioners at the November 9, 1999 regular Land Board meeting.</p> |
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